IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 25TH MAY 2007 / 4TH JYAISHTA 1929

CRP.No. 1035 of 2004(C)

AGAINST THE ORDER DATED 28/02/2004 IN EP 497/03 IN OS.227/1999 of PRL.MUNSIFF COURT,THRISSUR

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REVN. PETITIONER: JUDGMENT DEBTOR:

A.V. JOSEPH, S/O. VAREED,
AKKARAPADIKKAL HOUSE, PURANATTUKARA VILLAGE,
THRISSUR DISTRICT.

BY ADV. SRI.M.K.DILEEP KUMAR

RESPONDENTS: DECREE HOLDER:

OMANA, W/O. MOHAN DAS, `NARAYANI
NILAYAM', MANIKANDA, MANDHIRATHIL,
PALAKKAL, VADAKKETHARA VILLAGE,
TALAPILLY TALUK, THRISSUR DISTRICT.

BY ADV. SRI.P.G.SURESH

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 25/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRP.No. 1035 of 2004

IA NO. 2384 OF 2004 IN C.R.P. No. 1035 OF 2004

DISMISSED

25.05.2007 SD/- PIUS C. KUIAKOSE, JUDGE.

PIUS C. KURIAKOSE, J.

C.R.P No. 1035 OF 2004

Dated this the 25th day of May, 2007

JUDGMENT

The judgment debtor is the revision petitioner and he impugns the order of the execution court holding that in spite of sufficient means he has neglected to pay the decree debt and accordingly directing issuance of warrant against him. It is fairly conceded before me by learned counsel appearing for the respondent that the petitioner-judgment debtor was also examined as a witness before the execution court and that Ext.B1 salary certificate was relied on by the petitioner to show that Rs.2,000/- is the monthly salary received by him. But surprisingly the impugned order is issued on the premise that the judgment debtor has not adduced any evidence. The impugned order has to be set aside on that reason. However, it is seen that the petitioner was able to comply with the direction of this Court that a sum of Rs.5,000/- shall be remitted within one month. Even on the admissions of the petitioner, he is getting monthly income of Rs.2,000/-.

Under these circumstances, even as I set aside the impugned order and direct passage of fresh orders by the execution court, I issue the following directions:

1. The respondent decree holder is permitted to withdraw the sum

of Rs.5,000/- already deposited by the petitioner pursuant to this Court's order.

2. The petitioner shall continue to pay the respondent on the 15th of every succeeding month commencing from 15th July 2007 till fresh orders are passed by the execution court at the rate of Rs.750/- towards the decree debt.

The execution court will pass fresh orders as directed above appreciating the entire evidence which come on record at the earliest and at any rate within three months of receiving copy of this judgment.

PIUS C. KURIAKOSE, JUDGE

btt